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Memorandum of Understanding
between
Central Board of Excise and Customs
&
Institute of Company Secretaries of India

MOU between CBEC and ICSI for setting up ACES Certified Facilitation Centre

This Memorandum of Understanding is entered into at New Delhi on 25th day of June 2010

BETWEEN

The Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India (hereinafter referred to as `CBEC'), represented through Shri Debi Prasad Dash, Additional Director General of Systems, Directorate General of Systems, New Delhi (which excludes his successor and assigns)

AND

The Institute of Company Secretaries of India, set up under an Act of Parliament namely, The Company Secretaries Act, 1980 having its Head Office at `ICSI House, 22, Institutional Area, Lodhi Road, New Delhi – 110003 (hereinafter referred to as the `ICSI'), represented through Shri N.K.Jain , Secretary and C.E.O., ICSI (which includes his successors, and assigns)

WHEREAS the Central Board of Excise and Customs (CBEC) has launched the Automation of Central Excise and Service Tax (ACES) Project to facilitate e-filing of documents and has approached the Institute of Company Secretaries of India (ICSI) to facilitate setting up of Certified Facilitation Centres (CFCs) by the Company Secretaries in practice/proprietary concern(s)/firm(s) of Company Secretaries in practice at various locations throughout the country to facilitate transactions in ACES like e-filing of returns and other documents by assesseees of Central Excise and Service Tax.

WHEREAS, the ICSI is willing to facilitate the setting up of CFCs by the Company Secretaries in practice/proprietary concern(s)/firm(s) of Company Secretaries in practice for the above purpose.

AND

WHEREAS CBEC and ICSI have desired to enter into this MOU on the terms & conditions set out hereunder:

1. The **name of the scheme** will be `Scheme for Certified Facilitation Centres (CFCs) under the Automation of Central Excise and Service Tax (ACES) Project of CBEC.

2. Date of launch of the scheme

The Scheme shall take effect from the 26th June, 2010 and shall remain valid for an initial period of one year, unless renewed/revised/modified/cancelled earlier.

3. Certified Facilitation Centre

A Certified Facilitation Centre (CFC) for ACES is a facility, other than the physical front offices or Facilitation Centres of CBEC, which may be set-up and operated by a Company Secretary or a proprietary concern/firm of Company Secretary(s) in practice to whom a certificate is issued under the ACES project, where the assesseees of Central Excise and Service Tax can avail the facility to file their returns and other documents electronically along with associated facilitation on payment of specified fees.

4. Eligibility and Qualifications

A Certified Facilitation Centre (CFC) can be set-up and operated by a Company Secretary in practice or a proprietary concern/firm of Company Secretaries in practice fulfilling the following criteria:

- (i) He/ She and each partner (in case of firm of Company Secretaries) should be a Member of the ICSI and should have valid Certificate of Practice issued by ICSI;
- (ii) He/ She or any partner (in case of firm of Company Secretaries) should possess experience of at least **one year** in practice;
- (iii) He/ She and any partner (in case of firm of Company Secretaries) should not have been guilty of professional misconduct under the Company Secretaries Act, 1980 during three years immediately preceding the date of application or violated any laws being enforced by CBEC, as communicated by CBEC to ICSI,
- (iv) He/ She and every partner (in the case of firm of Company Secretaries) should meet the technical eligibility criteria for operation of the CFC Scheme as indicated under Para 5 below;
- (v) He/ She and any partner (in the case of firm of Company Secretaries) should not be facing any investigation or enquiry by CBEC for any violations as communicated by CBEC to ICSI including the Service Tax laws and Rules.

5. Technical Eligibility Criteria (Infrastructure Requirements)

In order to be eligible for approval as a Certified Facilitation Centre, the applicant must have the following minimum physical and technical infrastructure/ facilities:

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- (i) Office Space measuring a minimum of 100 sq. ft. and equipped with at least two counter seats for service and 4-5 waiting seats;
- (ii) Two Pentium Class – IV PCs with Colour Monitors and Min. 1 GB RAM, USB Ports, Floppy Disk Drive, and CD Writer.
- (iii) A desk-jet or laser printer;
- (iv) A flat bed scanner (above 600 DPI);
- (v) Broadband Internet connectivity or higher;
- (vi) Dependable Power Supply arrangements including UPS.
- (vii) Fax and Phone facility;
- (viii) At least one trained staff person who can operate the systems;
- (ix)** The Computer system should be equipped with the following software:
 - a. Windows 2000 / Windows XP
 - b. Web browser IE 6.0 or above, Netscape 6.2 & above
 - c. Adobe Reader V.7.0.5
 - d. Java Runtime Environment (JRE)
 - e. PDF Converter and Anti-virus Software
 - f. HDD 80 GB or more
 - g. MS Excel 2003 or above

6. Schedule and scope of Services and Maximum charges for various Services.

The CFC shall provide the following technical and non-technical services with maximum permissible rates mentioned against each one of these services. The rates for services indicated herein are maximum indicative rates and these rates are exclusive of the statutory fees/ taxes payable to the Government in respect of all services:

1. Digitization and/or E-filing of Central Excise and Service Tax Documents.

Currently, ACES has made available the following returns which can be filed both online or by using offline downloadable utilities:

- Excel Utilities for Central Excise Returns - ER1, ER2, ER3, ER4, ER5, ER6 and Dealer's Return
- XML Schema for Central Excise Returns - ER1, ER2 and Dealer's Return
- Excel Utility for Service Tax Return (ST3)
- Further, the assesees can carry out many on-line transactions such as online registration , amendment to the registration form , filing various claims, intimations, and

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permissions, refund claim, request for provisional assessment and export related documents. They can also file replies to show cause notices and appeals to Commissioner(Appeals)

2. **Fees:** The CFCs can charge their customers fees for the services rendered at the maximum rates indicated below:

Sr. No.	Service	Rates / Charges
1.	Data Entry of Returns (Filling-up of e>Returns)	Rs. 50/- per page subject to a maximum rate of Rs. 600/- per Return
2.	Data Entry of Forms other than Returns	Rs. 100/- per page
3.	Scanning of Documents and conversion to PDF format	Rs. 5/- per page
4.	Laser Printing (B&W)	Rs. 5/- per page
5.	Uploading Returns with ACES	Rs. 200/-per return
6.	Attaching Documents with e-Form	Rs. 1/- per page
7.	Viewing Documents	Rs. 50/- per 30 minutes
8.	Apply for and procurement of DSC for users	Rs. 100/- per DSC
9.	Use of DSC by CFC operator to facilitate e-filling for the client along with Disclaimer	Rs. 20/- for each signature use.
10.	Services other than those listed above as may be offered by the CFC	At market-driven rates

7. **Obligations of the CFC**

- (i) The CFC shall appropriately display the Certificate issued by ICSI;
- (ii) It will provide services on payment basis and the service charges shall not exceed the amount indicated in the schedule of charges indicated in the scheme and it must prominently display the details of service charges chargeable by the CFC in respect of various services as mentioned in para 6.2 above ;

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- (iii) It will ensure that all the facilities are in good working condition at all times and reliable connectivity is maintained.
- (iv) It will undertake work on behalf of its client, after obtaining legally valid authorization on behalf of the management of the client, the original copy of which should be kept by the CFC on records for at least a period of five years, or such other period as may be prescribed by CBEC, from time to time, for verification by the authorized persons of CBEC/ICSI. It will be the responsibility of the CFC to take all due and reasonable care to ensure that the person on whose instructions, he/she carries out work in ACES, is duly authorized by the client to do so.
- (v) Before uploading documents on behalf of its clients to the ACES website, the CFC will take signature of the authorized person on each page of the hard copies of the documents to be uploaded and keep copies on their records for at least a period of five years, or such other period as may be prescribed by CBEC, from time to time, for verification by the authorized persons of CBEC/ICSI.
- (vi) It will not use the user ID and Password of its clients for transactions in ACES and shall always use its own user ID and Password or its own valid DSC, as and when permitted to be used by CBEC, for carrying out transactions on behalf of its clients in ACES. In case of any dispute, the decision of CBEC shall be final.
- (vii) It will be responsible for proper and legally valid operation of the Digital Signature Certificate (DSC), during the validity period of the DSC, issued by a Certification Agency, if such service has been facilitated by the CFC to the end-user.
- (viii) It will keep accounts of all statutory fees / payments in respect of the services provided by it.
- (ix) It may be subject to inspection by persons authorized by CBEC or ICSI, as and when required, and during the inspection or enquiry, CFC shall provide full co-operation including providing statements, relevant records /documents for inspection and if required, allow them to take the original records/documents, against acknowledgement, after retaining attested copies for their own use. ICSI and CBEC can also take any other

legal action, as it may deem fit and proper, against the CFC, under any other law, rule, regulation or scheme in force.

- (x) In case of a partnership firm, any change in constitution shall be intimated to the ICSI forthwith and in case of admission of a partner, the firm shall submit a duly signed undertaking of the responsibilities and accountabilities (as mentioned in the application form) by the new partners.
- (xi) In case the CFC chooses to close down the CFC, it will do so with one month's notice to CBEC and ICSI and;
 - i) shall surrender the Registration Certificate to ICSI;
 - ii) submit the documents collected from the clients to the concerned Range Officer of Central Excise/ Service Tax and obtain acknowledgement thereof and submit the copy of such acknowledgement to ICSI;
 - iii) ICSI will intimate CBEC for cancellation of user-id & password allotted by CBEC to the CFC

(xii) Whenever any communication is received by the CFC from CBEC through the ACES application or otherwise, it will be the responsibility of the CFC to take appropriate steps and keep the assessee properly informed for taking necessary action. Legal responsibility arising out of CFC's failure to comply with this provision, will lie with the CFC who will be liable for the consequences and it may lead to suspension, cancellation to function as CFC or lead to any other legal action against it, as deemed appropriate by CBEC.

8. Mode of Application and Application fee.

A person qualified and eligible to set up and operate a CFC in accordance with the provisions contained in the Scheme may apply to ICSI through the Regional Council/ Decentralised office/Branch of the ICSI for a Certificate under this Scheme in prescribed application form. The Regional Council/ Decentralised Office/Branch concerned would then forward the application to the Head Office of the ICSI with its recommendations and the requisite fees. After scrutiny, if the application is found satisfying the terms and conditions of the Scheme, the Head Office of ICSI will issue CFC Certificate to the applicant (hereinafter referred to as the

Certificate) and communicate the list of approved CFCs to CBEC, which will issue User ID and Password to the CFCs so approved by e-mail for accessing the ACES application. The CBEC will not collect any fees from the applicants. The ICSI may collect nominal fees towards the administrative charges for processing of applications and subsequent regulation of the CFCs. Applications under this Scheme would be accepted on a continuing basis.

The ICSI may prescribe any other mode of receipt, processing and verification of applications, on-line or off-line, as considered most efficient and feasible by them in-consultation with CBEC.

9. Suspension and Cancellation of Certification

CFCs found to be not complying with technical / professional criteria as specified, or found guilty of misconduct by the ICSI or by CBEC or found lacking in fulfilling the requisite obligations shall be liable to have their certification cancelled without any compensation. In case of any violations of the terms and conditions of this scheme, and of the certification, or any violation as communicated by CBEC or when a CFC Certificate-holder is declared as ineligible to practice by ICSI, the Certificate will be suspended by ICSI and the CFC will not be allowed to undertake any work in ACES, on behalf of any client. In any case the decision of CBEC will be binding on all in all cases.

Further, in case of admission of a new partner in a firm, the Certificate will be suspended by ICSI till such time as a duly signed undertaking of the responsibilities and accountabilities (as mentioned in the application form) by the new partner- is received by the ICSI and shall be intimated to CBEC. In any case the decision of CBEC will be binding on all in all cases.

10. Validity of Certificate

The Certificate of Registration for a CFC under the Scheme will be valid for a period of one year, unless the scheme is modified, withdrawn or the Certificate is suspended or cancelled before that as per the provisions of this scheme. The Certificate may be renewed, with the approval of the ICSI and CBEC, as per the terms and conditions of the scheme applicable at the time of renewal.

11. Publicity of List of CFCs by ICSI and CBEC

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The name and address of the approved CFC along with the contact particulars of the service provider shall be mentioned in the list of CFCs to be put up on the websites of ICSI and CBEC.

IN WITNESSETH WHEREOF, the Parties to this MOU have set their hand on this 25th June 2010 and have executed these presents the day and year first herein above written in presence of the witnesses mentioned:

<hr/> <p>Signed and delivered by Shri D.P. Dash, Add. Director General, DG Systems, CBEC, For and on behalf of The Central Board of Excise and Customs (CBEC), Department of Revenue, Ministry of Finance, Government of India</p>	<hr/> <p>Signed and delivered by Shri. N.K.Jain, Secretary and C.E.O, ICSI. For and on behalf of The Institute of Company Secretaries of India, New Delhi</p>
<p><u>WITNESSES :</u> 1.</p>	<p>2.</p>